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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,088	06/15/2001	Robert J. Del Principe	9437.17504	8647

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EXAMINER

WONG, STEVEN B

ART UNIT PAPER NUMBER

3711

DATE MAILED: 08/29/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/883,088

Applicant(s)

DEL PRINCIPE, ROBERT J.

Examiner

Steven Wong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 11-27 is/are pending in the application.
- 4a) Of the above claim(s) 19-24 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 11-18 and 25-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 102/103

2. Claims 1-3 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by, or in the alternative under 103(a) as being unpatentable over Pond, III (3,087,728). Regarding claims 1 and 18, Pond discloses a simulated golf club comprising a shaft having an annular score line (noted at 28 in Figure 2). Pond states that the shaft (14, 16) is formed from a flexible rubber or a plastic material. These materials are inherently capable of deflecting in response to a bending force and returning to the original condition once the bending force is removed. Further, the shaft will permanently break along the score line (note Figure 3) when the shaft is deflected to a bend angle that exceeds predetermined parameters. Pond also provides a pin (38) that connects the shaft upper and lower portions. The pin is inherently capable of permitting some bending about the score line before fracturing.

In the alternative, it would have been obvious to one of ordinary skill in the art to provide a pin made of a material that would allow some bending of the shaft about the score line in order to prevent premature “breakage” of the club.

Regarding claims 2 and 3, note Figure 5 which shows a round cross section.

3. Claims 4-8, 11-17 and 25-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pond, III (3,087,728). Note the rejections set forth in the first Office Action.

Response to Arguments

4. Applicant's arguments filed July 7, 2003 have been fully considered but are not deemed to be persuasive. Applicant argues that the frangible pin taught by Pond would not permit bending about the score line. However, this is not persuasive as a frangible pin would inherently permit some bending for the shaft about the score line. The applicant appears to be arguing a difference in degree that is not presented in the claims. Further, the disclosure of Pond is clear that the frangible pin breaks upon a substantial impact between the golf club and an inanimate object. Attention is directed to column 1, lines 35-41 and column 2, lines 42-50 which describe the situations under which fracture of the pin occur. Clearly, by "frangible" Pond means for the pin to withstand minor forces and only break upon a substantial force thereupon.

In the alternative, it would have been obvious to one of ordinary skill in the art to provide a pin made of a material that would allow some bending of the shaft about the score line in order to prevent premature "breakage" of the club. By providing a pin made of a material that would allow some bending of the shaft, the shaft would return to a generally straightened and original condition once the bending force is removed.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

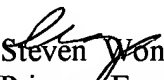
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Wong whose telephone number is 703-308-3135. The examiner can normally be reached on Monday through Friday 7am-3:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Sewell can be reached on 703-308-2126. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3579 for regular communications and 703-308-7768 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


Steven Wong
Primary Examiner
Art Unit 3711

SBW
August 25, 2003